

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

FILED
APR 18 2008
John C. Clegg, Clerk

UNITED STATES OF AMERICA, * CR 08-10009 (01), (02),
* (03) and (04)
* Plaintiff,
* -vs- * AMENDED
* ORDER GRANTING CONTINUANCE
*
* ANESSA WHITE EAGLE, *
* ANNA LISA WHITE EAGLE *
* LORNA ARCHAMBAULT and *
* MILES BO YELLOW EARRINGS, *
* Defendants. *
*

Defendant Anessa White Eagle filed a motion to continue trial and related pretrial deadline, Doc. 40, and defendant's waiver of time limits, Doc. 41. Defendant Anna Lisa White Eagle filed a motion for continuance, Doc. 43, and defendant's consent to waiver of time limits, Doc. 45. Defendant Lorna Archambault filed a motion for continuance of trial and for extension of relevant deadlines, Doc. 38, and defendant's affidavit waiving her time limits, Doc. 39. Defendant Miles Bo Yellow Earrings filed a motion for continuance and to extend deadline for filing of motions, Doc. 36, and defendant's consent for continuance, Doc. 42. The government filed its response to the motion, Doc. 44, stating that it has no objections to the continuance. The defendants personally join in the motions.

The Court finds that the ends of justice are served by continuing this trial which ends outweigh the best interests of the public and the defendant in a speedy trial. Despite the exercise of due diligence, all counsel require additional time to properly investigate and prepare for trial. Based on the record herein,

IT IS ORDERED:

- (1) The motions for continuance, Docs. 40, 43, 38 and 36, are granted.

(2) All motions, other than motions in limine and motions for continuance, shall be filed and served on or before March 17, 2008. Opposing counsel shall respond thereto on or before March 24, 2008. All such motions shall be heard by the Magistrate Judge at such time as set after consultation with counsel.

(3) All motions for continuance will be considered by the Court when the defendant has filed a written consent to the continuance and the opposing party has filed a response.

(4) All motions in limine shall be filed at least ten (10) working days before trial.

(5) Counsel shall submit directly to the Court, the Clerk of Courts and to opposing counsel by no later than 4:00 P.M. on the business day before trial a list of all witnesses and proposed exhibits with a copy of each exhibit showing the number of each exhibit as marked. Requests for subpoenas shall be filed no later than fourteen (14) working days before trial. If jury selection takes place with the jury to return at a later date, the deadline shall be 4:00 o'clock P.M. on the business day before jury selection.

(6) April 18, 2008, is hereby set as the deadline for submission to the Court and filing of any proposed plea agreements and the factual basis statement and motions to enter oral pleas.

(7) The jury trial is continued to **Friday, April 25, 2008, at 9:00 o'clock A.M.** in the Federal Courtroom of the U.S. Courthouse in Aberdeen, South Dakota.

(8) All proposed jury instructions shall be submitted to the Court not later than ten working days before trial. A copy of each proposed instruction showing source and authority notes shall be furnished to the Court and other counsel. The Court has assembled basic instructions used in all criminal cases defining duties of jurors, burden of proof, basic definitions and other matters. Therefore, the parties should only submit those instructions which are related to the specific matters in issue in this case.

(9) Once trial is started, any objection, motion or other application for relief made by any defense counsel orally or in writing shall be deemed to be adopted and joined in by every other defendant, without announcement by counsel to that effect, and the rulings of the Court shall be deemed to apply to each defendant unless otherwise stated at the time the ruling is made. Accordingly, it shall be regarded as unnecessary and improper for counsel to rise to "join in" an

objection or motion. Rather counsel should rise to be heard only for the purpose of expressly opting out of an objection or motion.

(10) The period of delay resulting from such continuance is excluded in computing the time within which the trial of the offense must commence. 18 U.S.C. § 3161(h)(8)(A).

Dated this 17th day of April, 2008.

BY THE COURT:


CHARLES B. KORNMANN
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY: 
DEPUTY
(SEAL)